

APPEAL, CLOSED, MHT-ClerkA

**U.S. District Court
Alabama Middle District (Montgomery)
CIVIL DOCKET FOR CASE #: 2:05-cv-01014-MHT
Internal Use Only**

Pierce et al v. Redding
Assigned to: Honorable Myron H. Thompson
Cause: 28:0158 Notice of Appeal re Bankruptcy Matter (BA
Date Filed: 10/21/2005
Jury Demand: None
Nature of Suit: 422 Bankruptcy Appeal (801)
Jurisdiction: Federal Question

Appellant

Atheal Pierce

represented by **Atheal Pierce**
112 Norwood Blvd.
Montgomery, AL 36117
US
(334) 215-7525
PRO SE

V.

Appellee

Curtis Redding

represented by **Sabrina L. McKinney**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED



Date Filed	#	Docket Text
10/21/2005	 <u>2</u>	BANKRUPTCY CLERK'S TRANSMITTAL OF APPEAL w/Attachments. Bankruptcy Court case number 05-31205. Filed by Atheal Pierce. Appellant Brief due by 11/10/2005. (Attachments: # <u>1</u> Notice of Appeal# <u>2</u> Order Dismissing Bankruptcy Case)(sl,) (Entered: 10/27/2005)
10/21/2005	 <u>3</u>	Appellant's Copy of Designation of Record on Appeal and Statemenet of Isssues which was filed with US Bankruptcy Court. (Attachments: # <u>1</u> Exhibit A-Voluntary Petition# <u>2</u> Exhibit B-Motion to Lift Stay# <u>3</u> Exhibit C-Objection and Response# <u>4</u> Exhibit D-Rescheduled Notice of Chapter 13 Bankruptcy Case# <u>5</u> Exhibit E-Conditional Order Terminating Stay# <u>6</u>

		Exhibit F-Motion for Rehearing# <u>7</u> Exhibit G-Order Dismissing Bankruptcy Case# <u>8</u> Exhibit H-Notice of Appeal# <u>9</u> Exhibit I-Appellant's Notice of Filing of the Transcript Order) Remainder of Bankruptcy Court file filed conventionally and available for viewing in the Clerk's Office.(sl,) (Entered: 10/27/2005)
10/21/2005	<u>4</u>	Appellee's Copy of Designation of Record on appeal which was filed with US Bankruptcy Court. (Attachments: # <u>1</u> Exhibit A-Voluntary Petition# <u>2</u> Exhibit B-Notice of Deficiency# <u>3</u> Exhibit C-Summary of Schedules# <u>4</u> Exhibit D-Summary of Chapter 13 Plan# <u>5</u> Exhibit E-Motion to Extend Time# <u>6</u> Exhibit F-Order Dismissing Motion# <u>7</u> Exhibit G-Motion to Withdraw# <u>8</u> Exhibit H-Motion to Set Hearing# <u>9</u> Exhibit I-Order# <u>10</u> Exhibit J-Motion to Dismiss# <u>11</u> Exhibit K-Notice of Request for Dismissal# <u>12</u> Exhibit L-Trustee's Objection to confirmation# <u>13</u> Exhibit M-Order Dismissing Objection# <u>14</u> Exhibit N-Trustee's Motion to Dismiss Appeal)(sl,) (Entered: 10/27/2005)
10/25/2005		***Party American General Finance rep by Britt Batson Griggs added as interested party pursuant to <u>1</u> Notice of Termination of Automatic Stay. (sl,) (Entered: 10/27/2005)
10/26/2005	<u>1</u>	NOTICE by American General Finance <i>Notice of Termination of Automatic Stay and Creditor's Intent to Pursue State Law Remedies</i> (Griggs, Britt) (Entered: 10/26/2005)
10/28/2005	<u>5</u>	MOTION to Dismiss <i>Appeal</i> by Curtis Redding. (McKinney, Sabrina) (Entered: 10/28/2005)
11/01/2005	<u>6</u>	ORDER setting an on-the-record scheduling conference on 11/9/05 at 9:30 a.m. to discuss the pending <u>5</u> MOTION to Dismiss and a briefing schedule. Counsel for appellee is to arrange for the conference to be conducted by telephone. Signed by Judge Myron H. Thompson on 11/1/05. (sl,) (Entered: 11/01/2005)
11/01/2005		Copy of <u>6</u> Order mailed to pro se Debtor/Appellant Atheal Pierce on 11/1/05. (sl,) (Entered: 11/01/2005)
11/07/2005	<u>7</u>	Objection and Response to <u>5</u> MOTION to Dismiss Appeal filed by Atheal Pierce. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(sl,) (Entered: 11/08/2005)
11/07/2005	<u>8</u>	MOTION for Continuance by Atheal Pierce. (sl,) (Entered: 11/08/2005)
11/09/2005		***Set Clerk A Flag (sl,) (Entered: 11/09/2005)
11/09/2005	<u>9</u>	Minute Entry for Telephone SCHEDULING CONFERENCE before Judge Myron H. Thompson on 11/9/2005. (Court Reporter Mitchell Reisner.) (snc) (Entered: 11/09/2005)
11/10/2005	<u>10</u>	ORDERED, with regard to appellee Curtis C. Redding, Jr.'s <u>5</u> MOTION to Dismiss, as follows: (1) Appellee Curtis C. Redding, Jr.'s brief is due by 11/23/05; (2) Appellant Atheal Pierce's brief is due by 12/5/05; (3) <u>5</u>

		Motion to Dismiss is set for submission, without oral argument, on 12/5/05. Signed by Judge Myron H. Thompson on 11/10/05. (sl,) (Entered: 11/10/2005)
11/10/2005	● <u>11</u>	ORDERED with regard to the appeal, as follows: (1) Appellant Atheal Pierce's brief is due by 12/9/05; (2) Appellee Curtis C. Reding's brief is due by 12/19/05; (3) Appellant Pierce may file a reply brief by 12/28/05; (4) the appeal in this case is set for submission, without oral argument, on 12/28/05. Signed by Judge Myron H. Thompson on 11/10/05. (sl,) (Entered: 11/10/2005)
11/10/2005	● <u>12</u>	ORDER denying <u>8</u> Motion for Continuance . Signed by Judge Myron H. Thompson on 11/10/05. (sl,) (Entered: 11/10/2005)
11/21/2005	● <u>13</u>	BRIEF/MEMORANDUM in Support re <u>5</u> MOTION to Dismiss <i>Appeal</i> , <u>10</u> Order,, Set Deadlines, filed by Curtis Redding. (McKinney, Sabrina) (Entered: 11/21/2005)
12/15/2005	● <u>14</u>	BRIEF/MEMORANDUM in Opposition re <u>11</u> Order,, Set Deadlines, <i>Response/Brief in compliance with Court's Scheduling Order on Appeal</i> filed by Curtis Redding. (McKinney, Sabrina) (Entered: 12/15/2005)
12/20/2005	● <u>15</u>	ORDERED that appellant Atheal Pierce show cause, if any there be, in writing by 4:00 p.m. on 1/3/2006, as to why his appeal should not be dismissed for failure to prosecute. Appellant Pierce is informed that, if he fails to respond to this order within the time allowed, his appeal will be dismissed. The Clerk of Court is directed to mail a copy of this order to appellant Pierce at his address of record, by certified mail, return receipt requested. Signed by Judge Myron H. Thompson on 12/20/05. (sl,) (Entered: 12/20/2005)
12/23/2005	● <u>16</u>	EMERGENCY MOTION for Relief and showing Just Cause re: <u>15</u> Order and seeking judicial review and intervention with Chapter 13 by Atheal Pierce. (sl,) (Entered: 12/23/2005)
12/28/2005	● <u>17</u>	[VACATED PURSUANT TO <u>24</u> ORDER ENTERED ON 2/15/06] OPINION; An appropriate judgment will be entered dismissing Pierce's appeal. Signed by Judge Myron H. Thompson on 12/28/05. (sl,) Modified on 2/15/2006 (sl,). (Entered: 12/28/2005)
12/28/2005	● <u>18</u>	[VACATED PURSUANT TO <u>24</u> ORDER ENTERED ON 2/15/06] JUDGMENT; Ordered that appellant Atheal Pierce's <u>16</u> motionf for relief is denied as moot. It is further ordered that the costs are taxed against appellant Pierce. The Clerk of court is directed to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the FRCP. Signed by Judge Myron H. Thompson on 12/28/05. (Attachments: # <u>1</u> Civil Appeals Checklist)(sl,) Modified on 2/15/2006 (sl,). (Entered: 12/28/2005)
01/06/2006	● <u>19</u>	EMERGENCY MOTION for relief from <u>17</u> and <u>18</u> Opinion and Judgment dated 12/28/05 by Atheal Pierce. (sl,) (Entered: 01/06/2006)

01/06/2006	●	Emergency Motion for Relief from Opinion and Judgment treated as a motion to alter or amend or for rehearing, pursuant to order entered on 2/15/06. (This document has no pdf attached. See <u>19</u> for pdf.) by Atheal Pierce. (sl,) (Entered: 02/15/2006)
01/24/2006	● <u>20</u>	ORDER Transmitting Motion to District Court, entered by Judge Dwight H. Williams, Jr., United States Bankruptcy Court, Middle District of Alabama. (Attachments: # <u>1</u> Motion)(sl,) (Entered: 01/24/2006)
01/24/2006	● <u>21</u>	Emergency MOTION to correct the clerk's record by Atheal Pierce. (sl,) (Entered: 01/24/2006)
02/14/2006	● <u>22</u>	ORDER Transmitting Motion to District court, entered by Judge Dwight H. Williams, Jr., United States Bankruptcy Court, Middle District of Alabama. (Attachments: # <u>1</u> Attachment 1-Emergency Motion for Complete Relief 9/12/05 to present, filed in U. S. Bankruptcy Court)(sl,) (Entered: 02/14/2006)
02/14/2006	● <u>23</u>	EMERGENCY MOTION for Complete Relief 9/12/05 to present by Atheal Pierce. (sl,) (Entered: 02/14/2006)
02/14/2006	●	Emergency Motion for Complete Relief treated as a <u>23</u> brief in Support of appeal, pursuant to order entered on 2/15/06. (This document has no pdf attached. See <u>23</u> for pdf.) (sl,) (Entered: 02/15/2006)
02/15/2006	● <u>24</u>	ORDERERD as follows: (1) appellant Atheal Pierce's <u>19</u> Emergency Motion for Relief from Opinion and Judgment is treated as a motion to alter or amend or for rehearing; (2) appellant Pierce's <u>19</u> motion to alter or amend or for rehearing is granted; (3) the <u>18</u> judgment and <u>17</u> opinion dated 12/28/05 are vacated, and the appeal in this case is reinstated. It is further ordered that appellee Curtis Reding's <u>5</u> motion to dismiss is denied to the extent appellee Reding contends that appellant Pierce's appeal was untimely filed. Signed by Judge Myron H. Thompson on 2/15/06. (sl,) (Entered: 02/15/2006)
02/15/2006	● <u>25</u>	ORDERED that by 3/2/06, appellant Atheal Pierce must pay to the clerk of the bankruptcy court the full filing fee of \$255.00 or (if appellant Pierce cannot afford the filing fee) file in the bankruptcy court the form or forms necessary to request to proceed in forma pauperis. If appellant Pierce fails to comply with this directive, the court will grant appellee Curtis Reding's <u>5</u> motion to dismiss (to the extent appellee Reding contends the appeal should be dismissed because appellant Pierce has not paid the requisite filing fee) and dismiss appellee Pierce's appeal pursuant to FRCP 41(b) for failure to prosecute. Further ordered that appellant Pierce msut submit a Transcript Request Form to the clerk of the bankruptcy court by 3/2/06. If appellant Pierce fails to comply with this directive, the court will dismiss his appeal pursuant to FRCP 41(b) for failure to prosecute. Further ordered that appellant Pierce is to file a copy of the completed Transcript Request Form with this court by 3/2/06. If appellant Pierce fails to comply with this directive, the court will dismiss his appeal pursuant to FRCP 41(b) for failure to prosecute. Filing Fee due by 3/2/2006.. Signed

		by Judge Myron H. Thompson on 2/15/06. (sl,) (Entered: 02/15/2006)
02/15/2006	● <u>26</u>	ORDERED as follows: (1) in light of a separate order filed today in which the court vacated its opinion and judgment dismissing appellant Atheal Pierce's appeal as untimely, appellant Pierce's <u>21</u> Emergency Motion to correct the clerk's record is denied as moot; (2) Appellant Atheal Pierce's <u>23</u> Emergency Motion for complete relief is treated as a brief in support of his appeal. Signed by Judge Myron H. Thompson on 2/15/06. (sl,) (Entered: 02/15/2006)
02/17/2006	● <u>27</u>	Supplemental Designation of Record. (Attachments: # <u>1</u> Transcript# <u>2</u> Affidavit)(sl,) (Entered: 02/17/2006)
02/17/2006		Case reopened, ***Reopen Document <u>5</u> MOTION to Dismiss <i>Appeal</i> pursuant to order entered on 2/17/06 (sl,) (Entered: 02/17/2006)
02/17/2006	● <u>28</u>	ORDERED that appellee Curtis Reding's <u>5</u> MOTION to Dismiss is denied. Appellant Atheal Pierce's appeal will not be dismissed, and the court will consider the case on its merits. Signed by Judge Myron H. Thompson on 2/17/06. (sl,) (Entered: 02/17/2006)
02/21/2006	● <u>29</u>	OPINION. An appropriate judgment will be entered affirming the decision of the bankruptcy court. Signed by Judge Myron H. Thompson on 2/21/06. (sl,) (Entered: 02/21/2006)
02/21/2006	● <u>30</u>	JUDGMENT; In accordance with the memorandum opinion entered 2/21/06, it is the Order, Judgment, and Decree of the court that the order of the United States Bankruptcy Court for the Middle District of Alabama, dated 9/15/05 is affirmed. Further Ordered that the costs are taxed against appellant Atheal Pierce, for which execution may issue. The Clerk of court is directed to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the FRCP. Signed by Judge Myron H. Thompson on 2/21/06. (Attachments: # <u>1</u> Civil Appeals Checklist)(sl,) (Entered: 02/21/2006)
02/26/2006	● <u>31</u>	NOTICE OF APPEALby Atheal Pierce to the United States Court of Appeals Eleventh Circuit from the <u>29</u> Memorandum Opinion and Order as to <u>30</u> Judgment, entered. Copies mailed(ydw,) (Entered: 02/27/2006)
02/27/2006	●	Transmission of Notice of Appeal and certified copy Docket Sheet and Order to US Court of Appeals re <u>31</u> Notice of Appeal (ydw,) (Entered: 02/27/2006)
03/07/2006	●	USCA Case Number 06-11430-C for <u>31</u> Notice of Appeal filed by Atheal Pierce. (ydw,) (Entered: 03/08/2006)
03/17/2006	● <u>32</u>	NOTICE OF Jurisdictional Question By USCA Eleventh Circuit re 06-11430-C, <u>31</u> Notice of Appeal, that whether the notice of appeal, filed on 10/28/2005, perfected an appeal from the 7/21/99, judgment, in light of the district court's 10/20/2005, order granting in part the defendant's motion to vacate, set aside, or correct his sentence, 28 U.S.C. 2255? See Fed.R.App.P 4(b); United States v. Phillips, 225 F.3d 1198, 1201 (11th

		Cir. 2000); <i>Martin v. United States</i> , 81 F.3d 1083, 1084 (11th Cir. 1996); <i>Montemoino v. United States</i> , 68 F.3d 416, 417-18 (11th Cir. 1995). (dmn) (Entered: 03/20/2006)
03/17/2006	● <u>35</u>	MOTION for Leave to Proceed Without Pre-Payment of Fees on Appeal and MOTION to Adopt the Bankruptcy Documents as filed by Atheal Pierce. (dmn) (Entered: 03/23/2006)
03/21/2006	● <u>33</u>	MOTION to correct the case style by Atheal Pierce. (sl,) (Entered: 03/22/2006)
03/23/2006	● <u>34</u>	ORDER denying <u>33</u> Motion to correct case style. Signed by Judge Myron H. Thompson on 3/23/06. (sl,) (Entered: 03/23/2006)
03/24/2006	● <u>36</u>	ORDER that the <u>35</u> Motion for leave to proceed without prepayment of fees and to ADOPT the record on appeal, which the court is treating as a motion to proceed on appeal in forma pauperis is DENIED. Further ORDERED that the <u>31</u> appeal in this cause is hereby certified, pursuant to 28 U.S.C. 1915(a)(3), as not taken in good faith. Signed by Judge Myron H. Thompson on 3/24/2006. (dmn) [Modified on 3/24/2006 to replace the pdf. The wrong pdf was attached originally due to docketing error.-DMN] (Entered: 03/24/2006)
03/24/2006	● <u>37</u>	NOTICE of Correction re <u>36</u> Order. This notice is docketed to enter the corrected pdf of the referenced document into the record. The wrong pdf was attached when originally docketed due to docketing error. The correct pdf is attached to this notice. (Attachments: # <u>(1)</u> Corrected pdf of Order) (dmn) (Entered: 03/24/2006)
03/24/2006	● <u>38</u>	Entry of Dismissal of USCA as to 06-11430-C, <u>31</u> Notice of Appeal filed by Atheal Pierce, that pursuant to 11th Cir. R. 42-1(b), this appeal is dismissed for want of prosecution because appellant has failed to pay the \$250 docketing and \$5 filing fees (\$255) to the district court clerk and file a Transcript Order Form within the time fixed by the rules, effective this 23rd day of March, 2006. (dmn) (Entered: 03/24/2006)
03/30/2006	●	Received from USCA letter stating that this appeal has been clerically reinstated in light of the district court's order denying motion for IFP. (ydw,) (Entered: 03/30/2006)
05/02/2006	●	USCA Appeal Fees received \$ 255.00 receipt number 110064 re <u>31</u> Notice of Appeal filed by Atheal Pierce (ydw,) (Entered: 05/03/2006)
05/04/2006	● <u>39</u>	Objection to <i>Appellant's motion filed 5/1/2006 to proceed on appeal from bankruptcy court without the prepayment of filing fees</i> filed by Curtis Redding. (McKinney, Sabrina) (Entered: 05/04/2006)